

House Study Bill 284

Conference Committee Text

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1 1 Section 1. NEW SECTION. 455B.701 OIL SPILL IMMUNITY.
1 2 1. DEFINITIONS. As used in this section, unless the
1 3 context otherwise requires:
1 4 a. "Damages" means damages of any kind for which liability
1 5 may exist under the laws of this state resulting from, arising
1 6 out of, or relating to the discharge or threatened discharge
1 7 of oil.
1 8 b. "Discharge" means any emission, other than natural
1 9 seepage, intentional or unintentional, and includes, but is
1 10 not limited to, spilling, leaking, pumping, pouring, emitting,
1 11 emptying, or dumping.
1 12 c. "Federal on-scene coordinator" means the federal
1 13 official designated by the federal agency in charge of the
1 14 removal efforts or by the United States environmental
1 15 protection agency or the United States coast guard to
1 16 coordinate and direct responses under the national contingency
1 17 plan.
1 18 d. "National contingency plan" means the national
1 19 contingency plan prepared and published under 33 U.S.C. }
1 20 1321(d).
1 21 e. "Oil" means oil of any kind or in any form, including,
1 22 but not limited to, petroleum, fuel oil, sludge, oil refuse,
1 23 and oil mixed with wastes other than dredged spoil.
1 24 f. "Remove" or "removal" means containment and removal of
1 25 oil or a hazardous substance from water and shorelines or the
1 26 taking of other actions as may be necessary to minimize or
1 27 mitigate damage to the public health or welfare, including,
1 28 but not limited to, fish, shellfish, wildlife, and public and
1 29 private property, shorelines, and beaches.
1 30 g. "Removal costs" means the costs of removal that are
1 31 incurred after a discharge of oil has occurred or, in any case
1 32 in which there is a substantial threat of a discharge of oil,
1 33 the costs to prevent, minimize, or mitigate oil pollution from
1 34 such an incident.
1 35 h. "Responsible party" means a responsible party as
2 1 defined under 33 U.S.C. } 2701.
2 2 2. EXEMPTION FROM LIABILITY.
2 3 a. Notwithstanding any other provisions of law, a person
2 4 is not liable for removal costs or damages which result from
2 5 acts or omissions taken or made in the course of rendering
2 6 care, assistance, or advice consistent with the national
2 7 contingency plan or as otherwise directed by the federal on-
2 8 scene coordinator or by the state official with responsibility
2 9 for oil spill response.
2 10 b. Paragraph "a" does not apply to the following:
2 11 (1) A responsible party.
2 12 (2) When the damage involves personal injury or wrongful
2 13 death.
2 14 (3) If the person is grossly negligent or engages in
2 15 willful misconduct.
2 16 c. A responsible party is liable for any removal costs and
2 17 damages that another person is relieved of under paragraph
2 18 "a".
2 19 d. This section does not affect the liability of a
2 20 responsible party for oil spill response under state law.
2 21

EXPLANATION

2 22 This bill provides that a person is not liable for removal
2 23 costs or damages which result from actions or omissions taken
2 24 or made in the course of rendering care, assistance, or advice
2 25 consistent with the national contingency plan or as otherwise
2 26 directed by the federal on-scene coordinator or by the state
2 27 official with responsibility for oil spill response. However,
2 28 the immunity does not apply to a responsible party, when the
2 29 damage involves personal injury or wrongful death, or if the
2 30 person is grossly negligent or engages in willful misconduct.
2 31 The bill refers to 33 U.S.C. } 2701 for a definition of
2 32 responsible party. A responsible party means any person
2 33 owning, operating, or chartering a vessel; any person owning
2 34 or operating an onshore facility, with certain exceptions; the
2 35 lessee or permittee of the area of an offshore facility, with
3 1 certain exceptions; the licensee of a deepwater port; or any
3 2 person owning or operating a pipeline.
3 3 LSB 2541HC 76
3 4 js/jj/8